

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

JAMES W. SMITH, Jr., on his own behalf  
and on behalf of those similarly situated,

Plaintiff,

v.

Case No. 12-CV-02669 (SRN/TNL)

QUESTAR CAPITAL CORPORATION,  
YORKTOWN FINANCIAL COMPANIES,  
INC. and ALLIANZ LIFE INSURANCE  
COMPANIES OF NORTH AMERICA,

Defendants.

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**DEFENDANTS' MOTION TO DISMISS**

Pursuant to Rules 9(b) and/or 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Questar Capital Corporation, Yorktown Financial Companies, Inc. and Allianz Life Insurance Company of North America (collectively, "Defendants") respectfully move to dismiss Plaintiff James W. Smith, Jr.'s First Amended Class Action Complaint ("Amended Complaint"). For the reasons stated in Defendants' Memorandum of Law in Support of Their Motion to Dismiss the First Amended Class Action Complaint, filed contemporaneously herewith, Plaintiff's Amended Complaint should be dismissed with prejudice.

Respectfully submitted,

By: /s/ Anthony N. Cicchetti

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Dated: September 30, 2013

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